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| 09/802,237 | 03/08/2001 | Christopher Keith | IVEN125472 | 7700 |
| 52531 7590 07/18/2007 CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347 | | | EXAMINER GRAHAM, CLEMENT B | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/802,237

Applicant(s)

KEITH, CHRISTOPHER

Examiner

Clement B. Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-22 remained pending and claims 23-28 has been added.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-28, are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutterman et al (Hereinafter Gutterman US Patent No 5, 297, 031) in view of Nelson US Patent No 4, 823, 265).

As per claims 1-2, Gutterman discloses a method of facilitating trading, comprising: automatically via a computer sending a trial order("i. e, order") to a market and automatically via a computer receiving a report ("i. e, displaying orders") indicating that the trial order would have been paired if it had been a regular order and wherein a trial order is for discovery of current market depth at a price and is. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

Gutterman fail to explicitly teach an order to buy or sell.

However Nelson discloses the current market price of the underlying security is listed on the display. Offer prices are listed according to strike prices which may (as shown) be described in set increments, or may be equal to or related to the current market price of the security. Bid (buyer offer) and asked (written offer) prices are also listed for each strike price. Alternatively, a single price representing the current market price of the renewable option at each strike price may be listed. As a third alternative, the price of each renewable option may also be set by the listing agent or the writing agent for the listing agent if the market is generated internally by the listing agent rather than through a multi-access exchange. Prices may even be set by standardized formulas. Prices may obviously be affected by a variety of factors, but writers may well choose to list the price of the renewable options as a fixed percent of the strike/market

price on the basis of prevailing interest rates and stock dividends yields, for example. (see column 6 lines 3-21 and column 8 lines 53-60 and column 9 lines 18-28).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Gutterman to include an order to buy or sell taught by Nelson in order to provide price information or advice on various orders.

As per claim 3, Gutterman discloses, wherein the automatically sending and receiving are performed by a trading process. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claims 4, 8, 10-11, Gutterman discloses a method of facilitating trading, comprising: automatically via a computer receiving a trial order, automatically via a computer entering the trial order into an order file. ("i. e, conditional order "see column 2 lines 5-67") and automatically reporting ("i. e, displaying information on each order") when the trial order would have been paired had it been a regular order and wherein a trial order is for discovery of current market depth at a price and is not. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

Gutterman fail to explicitly teach an order to buy or sell.

However Nelson discloses the current market price of the underlying security is listed on the display. Offer prices are listed according to strike prices which may (as shown) be described in set increments, or may be equal to or related to the current market price of the security. Bid (buyer offer) and asked (written offer) prices are also listed for each strike price. Alternatively, a single price representing the current market price of the renewable option at each strike price may be listed. As a third alternative, the price of each renewable option may also be set by the listing agent or the writing agent for the listing agent if the market is generated internally by the listing agent rather than through a multi-access exchange. Prices may even be set by standardized formulas. Prices may obviously be affected by a variety of factors, but writers may well choose to list the price of the renewable options as a fixed percent of the strike/market price on the basis of prevailing interest rates and stock dividends yields, for example. (see column 6 lines 3-21 and column 8 lines 53-60 and column 9 lines 18-28). (see column 2 lines 5-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Gutterman to include not an order to buy or sell taught by Nelson in order to provide price information or advice on various orders.

As per claim 5, Gutterman discloses, further comprising selecting the trial order for pairing with an active side order without affecting the pairing priority of other orders in the order file. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claim 6, Gutterman discloses, wherein the automatically reporting includes sending a pairing report for zero shares to a source of the trial order. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claim 7, Gutterman discloses, wherein the pairing report includes the price at which the trial order would have been paired had it been a regular order. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claim 9, Gutterman discloses automatically removing the trial order from the order file after reporting when it would have been paired. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claims 12, Gutterman discloses a system configured to facilitate trading, comprising:

a computing component configured to send a trial order("i. e, order") to a market and receive a report therefrom indicating that the trial order would have been paired if it had been a regular order, wherein a trial order is for discovery of current market depth at a price. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

Gutterman fail to explicitly teach an order to buy or sell.

However Nelson discloses the current market price of the underlying security is listed on the display. Offer prices are listed according to strike prices which may (as shown) be described in set increments, or may be equal to or related to the current market price of the security. Bid (buyer offer) and asked (written offer) prices are also

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listed for each strike price. Alternatively, a single price representing the current market price of the renewable option at each strike price may be listed. As a third alternative, the price of each renewable option may also be set by the listing agent or the writing agent for the listing agent if the market is generated internally by the listing agent rather than through a multi-access exchange. Prices may even be set by standardized formulas. Prices may obviously be affected by a variety of factors, but writers may well choose to list the price of the renewable options as a fixed percent of the strike/market price on the basis of prevailing interest rates and stock dividends yields, for example. (see column 6 lines 3-21 and column 8 lines 53-60 and column 9 lines 18-28).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Gutterman to include an order to buy or sell taught by Nelson in order to provide price information or advice on various orders.

As per claims 13, Gutterman discloses wherein the report received by the computing component also indicates the price at which the trial order would have been paired if it had been a regular order. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claims 14, Gutterman discloses computing component is configured to execute a trading process that sends the trial order and receives the report. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claims 15, Gutterman discloses a system configured to facilitate trading, comprising:

one or more computing components configured to receive a trial order, wherein the trial order is for discovery of current market depth at a price and is not an order to buy or sell, said one or more computing components being further configured to enter the trial order into an order file and report when the trial order would have been paired had it been a regular order. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claims 16, Gutterman discloses wherein said one or more computing components are further configured to select the trial order for pairing with an active side

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order without affecting the pairing priority of other orders in the order file. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claims 17, Gutterman discloses wherein said one or more computing components are configured to report when the trial order would have been paired by sending a pairing report for zero shares to a source of the trial order. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claims 18, Gutterman discloses wherein the pairing report includes the price at which the trial order would have been paired had it been a regular order. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claims 19, Gutterman discloses wherein said one or more computing components are further configured to automatically respond to market inquiries based on orders in the order file other than the trial order. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claims 20, Gutterman discloses wherein said one or more computing components are further configured to automatically remove the trial order from the order file after reporting when it would have been paired. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claims 21, Gutterman discloses wherein said one or more computing components are configured to execute a market process that performs the receiving, entering and reporting. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claims 22, Gutterman discloses wherein said one or more computing components are configured to receive the trial order from a trading process. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

As per claims 23, Gutterman discloses a computer-accessible medium having executable instructions stored thereon for facilitating trading at a market, wherein the instructions, when executed, cause a computer to:
order, receive a trial order,
enter the trial order into an order file, and
report when the trial order would have been paired at the market had it been a regular wherein a trial order is for discovery of current market depth at a price and is not an order to buy or sell.

As per claims 24, Gutterman discloses wherein the executable instructions further cause the computer to select the trial order for pairing with an active side order without affecting the pairing priority of other orders in the order file.

As per claims 25, Gutterman discloses wherein the instructions, when executed, cause the computer to send a pairing report for zero shares to a source of the trial order.

As per claims 26, Gutterman discloses wherein the pairing report includes the price at which the trial order would have been paired had it been a regular order.

As per claims 27, Gutterman wherein the executable instructions further cause the computer to respond to market inquiries based on orders in the order file other than the trial order.

As per claims 28, Gutterman discloses wherein the executable instructions further cause the computer to remove the trial order from the order file after reporting when it would have been paired.

Conclusion

Response to arguments

4. Applicant's arguments filed on 10/30/2006 has been considered but they are not persuasive for the following reasons.
5. In response to Applicant's arguments that Guterman fail to teach or suggest" trial order as claimed and indicating that the trial order would have been paired if it had been a regular order as claimed and wherein the trial order is for discovery of current market dept at a price

and is not a order to buy or sell" the Examiner disagrees with Applicant's because these limitations were addressed as stated.

Guttermann discloses automatically via a computer sending a trial order("i. e, order") to a market and automatically via a computer receiving a report ("i. e, displaying orders") indicating that the trial order would have been paired if it had been a regular order and wherein a trial order is for discovery of current market depth at a price and is. (Note abstract see column 7 lines 45-67 and column 8 lines 1-32 and column 5 lines 59-67 and column 6 lines 1-67).

However Nelson discloses the current market price of the underlying security is listed on the display. Offer prices are listed according to strike prices which may (as shown) be described in set increments, or may be equal to or related to the current market price of the security. Bid (buyer offer) and asked (written offer) prices are also listed for each strike price. Alternatively, a single price representing the current market price of the renewable option at each strike price may be listed. As a third alternative, the price of each renewable option may also be set by the listing agent or the writing agent for the listing agent if the market is generated internally by the listing agent rather than through a multi-access exchange. Prices may even be set by standardized formulas. Prices may obviously be affected by a variety of factors, but writers may well choose to list the price of the renewable options as a fixed percent of the strike/market price on the basis of prevailing interest rates and stock dividends yields, for example. (see column 6 lines 3-21 and column 8 lines 53-60 and column 9 lines 18-28).

Therefore it would have been obviously clear that Applicant's claimed limitations were taught within the teachings of Guttermann and Nelson.

Further Applicant's claims states "sending a trial order to a market" However it would have been obvious that any orders that is been sent to the market would have been executed unless there was problem with that order and that order would have been rejected.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantzy Ponvil can be reached on 703-305-9779. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

June 29, 1007


FRANTZY POINVIL
PRIMARY EXAMINER
Art 3692